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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048879
Party	Plaintiff NOR-CAL BEVERAGE CO., INC.
Correspondence Address	R. MICHAEL WEST THE LAW OFFICES OF R. MICHAEL WEST 1922 21st STREET SACRAMENTO, CA 95811 UNITED STATES mwest@saciplaw.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	R. Michael West
Filer's e-mail	mwest@saciplaw.com, cb@saciplaw.com
Signature	/R. Michael West/
Date	04/16/2009
Attachments	10761-MotionToAmend.1[1].pdf (7 pages)(63985 bytes) 92048879_MtnAmend_RMW_Dec-EXH_A-B.pdf (13 pages)(419703 bytes) CERTIFICATE OF SERVICE.pdf (1 page)(28614 bytes)

IN THE UNITED STATES TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Reg. No. 2,227,005

Trademark: GO GIRL

NOR-CAL BEVERAGE CO., INC.)	
)	
Petitioner And Counterclaim Defendant,	)	Cancellation No. 92048879
)	
v.)	
)	
IRENE J. ORTEGA, dba GOGIRL ACTIVEWEAR)	
)	
Respondent And Counterclaim Plaintiff.)	
)	

PETITIONER’S MOTION FOR LEAVE TO FILE AMENDED
PETITION FOR CANCELLATION

PETITIONER NOR-CAL BEVERAGE CO., INC. (hereinafter, “NOR-CAL”), moves the Board for leave to file an AMENDED PETITION FOR CANCELLATION, including the recitation of additional factual circumstances in support of its Count I based upon abandonment, and adding an additional Count II based upon fraud in the maintenance of Registration No. 2,227,005, made the subject of the present Cancellation proceeding.

NOR-CAL simultaneously moves to stay all discovery, trial and testimony periods pending a resolution of the instant Motion To Compel.

PETITIONER'S MEMORANDUM

A. Factual Background

NOR-CAL initiated the pending Cancellation proceeding on February 5, 2008, on the grounds that Federal Registration No. 2,227,005, for GO GIRL, registered by ORTEGA'S predecessor in interest, is subject to cancellation under 15 U.S.C. § 1064(3). More specifically, the grounds for cancellation, included the facts that the corporate charter of ORTEGA'S predecessor in interest had been revoked and its corporate powers suspended as of the date that an alleged assignment of the '005 Registration was executed, that no right, title or interest in the '005 Registration was ever transferred to ORTEGA, that no Section 8 Affidavit of Use was ever filed by the owner of the '005 Registration, that the GO GIRL mark and '005 Registration were effectively abandoned by ORTEGA'S predecessor in interest, and therefor that the '005 Registration was subject to cancellation under the Act.

Since the time that the present Petition For Cancellation was filed, Petitioner has become aware of additional facts, and has recently come into possession of additional documents, which provide further grounds in support of its Count I (Abandonment), and also provide grounds for a new Count II (Fraud). In bringing this Motion, Petitioner seeks leave to file its AMENDED PETITION FOR CANCELLATION, so that all matters known at this time which form bases for cancellation of the '005 Registration, may be fully adjudicated.

B. Attempt To Obtain Consent From Opposing Counsel Before Bringing Motion

On March 26, 2009, NOR-CAL'S counsel sent a letter to counsel for Respondent ORTEGA, providing him with a copy of the proposed AMENDED PETITION FOR CANCELLATION. The letter requested his consent so that this pleading could be filed without

having to bring a Motion For Leave To Amend before the Board. A true and accurate photocopy of that letter, identified as “Exhibit A”, is appended to this Motion. A true and accurate photocopy of the AMENDED PETITION FOR CANCELLATION which accompanied that letter, is also appended to this Motion and is identified as “Exhibit B”.

In the above-referenced letter, Respondent’s counsel was apprised of the factual circumstances regarding the discovery of documents and information since the filing of the original PETITION FOR CANCELLATION, which provide additional support for the existing Count, and provide support for a new Count. The offer was also made, to provide copies of the documents which substantiate the amendments made to Count I in the amended pleading. It was also noted that the documents and information which provide support for the new grounds for cancellation, set forth in Count II, were in the hands of ORTEGA’S counsel, as they were provided in response to Petitioner’s discovery requests (Responses To Interrogatories And Requests For Documents).

No response whatsoever has been received by Petitioner’s counsel to the above-referenced letter, necessitating the filing of the present Motion.

C. Memorandum In Support Of Motion

Under the provisions of Fed. R. Civ.P 15(a), leave to file amended pleadings is freely given when justice so requires. Accordingly, the Board liberally grants leave to amend pleadings at any stage of the proceeding, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party. *See, e.g., Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503 (TTAB 1993); *United States Olympic Committee v. O-M Bread Inc.*, 26 U.S.P.Q.2d 1221 (TTAB 1993).

One factor to consider is the timing of the Motion. In other words, would Respondent

be prejudiced by allowance of the proposed amendment? See, TBMP § 507.02 (2nd ed. Rev. 2004). A Motion For Leave To Amend should be filed as soon as any grounds for such amendment, such as newly discovered evidence, becomes apparent to the moving party. Another factor is the legal sufficiency of the pleading. Where the moving party seeks to add a new claim, and the proposed pleading is legally insufficient, or would serve no useful purpose, the Board may deny the motion for leave to amend. *See, Octocom Systems Inc. v. Houston Computer Services, Inc.*, 16 U.S.P.Q.2d 1783 (Fed. Cir. 1990). Thus, the Board should consider whether there is undue prejudice to Respondent and whether the proposed Amended pleading is legally sufficient. *See, e.g., Cool-Ray, Inc. v. Eye Care, Inc.*, 183 U.S.P.Q. 618, at 621 (TTAB 1974).

1. Amendments To Count I (Abandonment)

Petitioner's original Petition For Cancellation pleaded facts regarding the forfeiture of the corporate charter of ORTEGA'S predecessor in interest, prior to the time that the '005 Registration was allegedly assigned to Respondent ORTEGA, on June 22, 2001, making the assignment null and void. (See, ¶¶ 7-10 of Petition To Cancel). This pleading also recited that ORTEGA'S predecessor in interest, Girl World Sports, Inc. filed no Section 8 Affidavit Of Use, nor did any other rightful owner of the '005 Registration, effectively making the '005 Registration subject to cancellation as abandoned. (See, ¶¶ 11-14).

Since the filing of its original pleading, Petitioner has discovered through its own independent investigations that: (1) ORTEGA'S predecessor in interest, Girl World Sports, Inc., filed for bankruptcy on December 10, 1999; (2) Girl World Sports, Inc. entered into a "Purchase And Sale Agreement" on April 18, 2000 with RCL Investments, Inc., in which purchased assets included the name Girl World Sports and all goodwill associated therewith [and] all copyrights and

trademarks connected to that entity; (3) On or about June 9, 2000, the Bankruptcy Court overseeing the bankruptcy of Girl World Sports, Inc. approved the “Purchase And Sale Agreement”; (4) On or about September 25, 2000, the Bankruptcy Court entered a final decree for the bankruptcy proceeding for Girl World Sports, Inc., and the case was closed. (See, ¶¶ 7-12 of AMENDED PETITION TO CANCEL).

Certified documents from the records of the Bankruptcy Court in Texas, substantiating the foregoing facts, were first obtained by Petitioner on January 21, 2009. These records evidence that more than a year before Girl World Sports, Inc. allegedly assigned the ‘005 Registration to Respondent ORTEGA, the ‘005 Registration had already been sold and transferred to a third party, RCL Investments, Inc., and that by September 25, 2000, the foregoing sale of assets had been approved, and the bankruptcy for Girl World Sports, Inc. was closed.

These records and the facts evidenced therein, provide further grounds to substantiate Petitioner’s contentions that the alleged assignment of the ‘005 Registration to ORTEGA was null and void, and without legal effect. Moreover, this recently obtained evidence further substantiates that the failure of Girl World Sports, Inc., or any other party having legal rights to the ‘005 Registration, to file an Affidavit of Use respecting the ‘005 Registration, constitutes an abandonment of the GO GIRL mark and the ‘005 Registration pertaining thereto.

2. New Count II (Fraud)

Petitioner’s original Petition For Cancellation did not include any count for cancellation of the ‘005 Registration, based upon fraud. However, Petitioner has determined from a review of documents recently provided by Respondent ORTEGA pursuant to discovery requests, that a fraud was committed on the USPTO in maintaining the ‘005 Registration. Count II, setting

forth the pleadings for this fraud, are set forth in ¶¶ 22-25 of AMENDED PETITION TO CANCEL, Exhibit B, hereto.

Count II essentially recites that at the time Respondent ORTEGA filed a Section 8 Affidavit of Use regarding the '005 Registration, ORTEGA knew that the GO GIRL trademark had not been in continuous use by her in commerce for five consecutive years at least in connection with Sweat pants and Leggings, two of the goods specifically recited in the '005 Registration. Fraud in maintaining a trademark registration occurs when a registrant in a declaration of use or a renewal application, knowingly makes false, material representations of fact in connection with a post-registration filing. *See, e.g. Torres v. Cantaine Torresella S.r.l.*, 1 U.S.P.Q.2d 1483, at 1484, (CAFC 1986). In this case, Count II adequately recites the elements of a fraud claim, under the standards of Fed. R. Civ. P. 9(b), particularly with respect to the scienter requirement. *Compare, Media Online Inc. v. El Clasificado Inc.*, 88 U.S.P.Q.2d 1285, at 1287 (TTAB 2008).

As to the timing of Petitioner's Motion For Leave To Amend respecting Count II, on January 16, 2009, ORTEGA provided for the first time a disk containing an electronic copy of some 6000 documents, produced in response to Petitioner's Request For Production Of Documents. The Board will recall that on January 16, 2009, Petitioner filed a Motion To Compel Discovery, which stayed all proceedings, pending disposition. The Board ruled on Petitioner's Motion on March 5, 2009, effectively reopening proceedings and Petitioner's ability to bring this Motion. As recited above, on March 26, 2009, Petitioner's counsel sent a letter to Respondent's counsel, requesting consent to file the instant amended pleading. It is believed that Petitioner has acted quickly and expeditiously, in connection with making this filing in timely fashion after the discovery of new evidence to support a new Count.

CONCLUSION AND ORDER REQUESTED

Petitioner NOR-CAL submits that in view of all the foregoing facts and circumstances and the applicable law, the AMENDED PETITION TO CANCEL is not unduly prejudicial to Respondent, was brought in timely fashion, and is legally sufficient. Accordingly, Petitioner respectfully requests that leave to file its AMENDED PETITION TO CANCEL be granted, and that all existing discovery and trial deadlines, including Testimony Periods be stayed, and subsequently reset, pending a resolution of this Motion.

Respectfully submitted,

Dated: April 16, 2009
Sacramento, California

/R. Michael West/
R. Michael West
Attorney For Petitioner

Attachments: Exhibits A and B

The correspondence address, and
the telephone and facsimile numbers
for this communication are:

R. Michael West
The Law Offices Of
R. Michael West
1922 21st Street
Sacramento, California 95811
Telephone: (916)-444-5444
Facsimile: (916)-444-5441

IN THE UNITED STATES TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Reg. No. 2,227,005

Trademark: GO GIRL

NOR-CAL BEVERAGE CO., INC.)	
	)	Cancellation No. 92048879
Petitioner And Counterclaim Defendant,)	
	)	DECLARATION OF
v.	)	R. MICHAEL WEST
)	
IRENE J. ORTEGA, dba GOGIRL ACTIVEWEAR)	)	EXHIBITS A and B TO MOTION
	)	FOR LEAVE TO FILE AMENDED
Respondent And Counterclaim Plaintiff.	)	PETITION FOR CANCELLATION
	/	

I, R. Michael West, declare and state as follows:

1. I am an attorney at law, and am Petitioner's counsel of record in connection with this Cancellation proceeding. I have personal knowledge of the facts contained in this Declaration, and I could and would testify competently to these facts if called as a witness.

2. Appended hereto is a true and accurate photocopy of the letter sent on March 26, 2009, to counsel for Respondent ORTEGA, identified as "Exhibit A".

3. A true and accurate photocopy of the AMENDED PETITION FOR CANCELLATION which accompanied that letter, is appended and identified as "Exhibit B".

I declare under penalty of perjury, under the laws of the United States, that the facts set

forth in this Declaration are true, that all statements made of my own knowledge are true, and that all statements made on information and belief are believed to be true.

Dated: April 16, 2009

/R. Michael West/
R. Michael West

Attachments: Exhibits A and B

Exhibit A

R. MICHAEL WEST
ALSO MEMBER OF ARIZONA BAR

LAW OFFICES OF
R. MICHAEL WEST
A Professional Corporation
1922 21st STREET
SACRAMENTO, CALIFORNIA 95811
(916) 444-5444
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INTELLECTUAL PROPERTY LAW
PATENTS TRADEMARKS COPYRIGHTS
TRADE SECRETS AND UNFAIR COMPETITION

March 26, 2009

File 10761-Cancel

Via Facsimile and First Class Mail

Barry F. Soalt, Esq.
Procopio, Cory, Hargreaves
& Savitch LLP
530 B Street, Suite 2100
San Diego, California 92101-4469

**Re: Amended Petition For Cancellation
Nor-Cal Beverage Co., Inc. v. Irene J. Ortega
Cancellation No. 92048879**

Dear Barry:

Enclosed please find a copy of Petitioner's Amended Petition For Cancellation. I am sending this to you with the request that you will stipulate to its filing on consent of Respondent, without my having to prepare and file a Motion To File this amended pleading.

The grounds for filing this amended pleading, are that documents and information have been discovered since the filing of my client's original pleading, which elaborate upon facts forming the basis for one of the Counts and establish additional facts which support a new Count for Cancellation of the '005 Registration.

If you would like copies of the documents which substantiate the amendments made to Count I, please advise and I will voluntarily provide copies to you without your having to conduct discovery. The documents and information which substantiate the new Count II are already in your hands, as they were provided by your client in response to our discovery requests.

Please advise as to your client's position no later than **Friday, April 10, 2009**.

If we do not hear from you by that date one way or the other, I will assume that your client is not willing to provide her consent, and we will thereafter file our Motion with the Board, as discussed above.

Barry F. Soalt, Esq.
March 26, 2009
Page 2

Sincerely yours,


R. Michael West

Enclosure: Amended Petition For Cancellation

cc. Nor-Cal Beverage Co., Inc.

Exhibit B

IN THE UNITED STATES TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Reg. No. 2,227,005

Trademark: GO GIRL

NOR-CAL BEVERAGE CO., INC.

Petitioner and Counterclaim Defendant

v.

IRENE J. ORTEGA, dba GOGIRL ACTIVEWEAR

Respondent and Counterclaim Plaintiff

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) Cancellation No. 92048879
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AMENDED PETITION FOR CANCELLATION

Petitioner NOR-CAL BEVERAGE CO., INC. (hereinafter, "NOR-CAL"), a corporation organized and existing under the laws of the State of California, having a mailing address of 2286 Stone Boulevard, West Sacramento, California 95691, believes that it has been damaged and will continue to be damaged by the continuing existence of Reg. No. 2,227,005 for the trademark GO GIRL, for "Clothing And Headgear For Women And Girls, Namely, Hats, Caps, Sweatshirts, Sweatpants, Leggings, T-Shirt, Shirts And Shorts", in International Class 25, and therefore petitions to cancel same.

As grounds for its Petition For Cancellation, Petitioner NOR-CAL through its attorney R. Michael West, of the Law Offices Of R. Michael West, APC, alleges as follows:

COUNT I - REGISTRATION SUBJECT TO CANCELLATION- ABANDONMENT

1. Petitioner NOR-CAL bottles and cans non-alcoholic beverages for the consumption by the general public. Since May 2005, NOR-CAL has marketed and distributed an energy drink under the trademark GO GIRL®. NOR-CAL owns Federal Registration No. 3,235,947 for GO GIRL, for Non-Alcoholic Beverages, Namely, Energy Drinks.

2. Subsequently, in connection with the advertising and promotion of its GO GIRL energy drink, NOR-CAL began producing a line of clothing and small promotional items identified with the term GO GIRL SUGAR FREE ENERGY DRINK.

3. In early 2007, NOR-CAL first became aware of Federal trademark Reg. No. 2,227,005 (“the ‘005 Registration”), issued on March 2, 1999, for GO GIRL, in connection with Clothing And Headgear For Women And Girls, Namely, Hats, Caps, Sweatshirts, Sweatpants, Leggings, T-Shirts, Shirts And Shorts. The USPTO online electronic records indicated that by way of Assignment, Respondent IRENE J. ORTEGA was the owner of the ‘005 Registration.

4. On information and belief, Respondent IRENE J. ORTEGA, dba GOGIRL ACTIVEWEAR, (hereinafter “ORTEGA”) is an individual, having a mailing address of: P.O. Box Box 502547, St. Thomas, US VIRGIN ISLANDS, 00805. ORTEGA claims to own the ‘005 Registration.

5. Shortly after it first became aware of the ‘005 Registration, NOR-CAL contacted ORTEGA and attempted both to purchase, and later to become licensed under, the ‘005 Registration. ORTEGA refused both of NOR-CAL’S offers, and instead issued through her attorney, a letter to NOR-CAL including a claim of trademark infringement and making a cease and desist demand.

ORTEGA'S claim and demand have caused damage to NOR-CAL, and will continue to cause damage to NOR-CAL, as they thwart NOR-CAL'S efforts to promote its energy drink and create an unacceptable risk of liability for the continuing distribution of its clothing and promotional items displaying the term GO GIRL SUGAR FREE ENERGY DRINK thereon.

6. The '005 Registration was originally granted to Girl World Sports, Inc., a Texas corporation. Based upon the current public records of the Texas Secretary of State's Office, World Sports, Inc. was granted its corporate charter on or about March 8, 1996.

7. On or about December 10, 1999, Girl World Sports, Inc. filed for bankruptcy, in the United States Bankruptcy Court, in the Southern District of Texas, Houston Division. In "Schedule B - Personal Property", appended to said filing, the Debtor claimed an interest in "Copywritten Designs and Trademarks", having a fair market value of \$95,250.00 without deducting any secured claim or exemption.

8. On or about June 8, 2000, Girl World Sports, Inc., filed the Debtor's Third Amended Disclosure Statement, for the Bankruptcy Court's approval. Exhibit B to the Disclosure Statement, entitled "Purchase And Sale Agreement", was entered into on April 18, 2000, between Purchaser, RCL Investments, Inc., and Seller, Girl World Sports, Inc. The "Purchased Assets", which Seller agreed to sell and which Purchaser agreed to purchase, included *inter alia*, "... (vi) the name Girl World Sports and all goodwill associated therewith [and] (vii) all copyrights and trademarks:....".

9. On or about June 8, 2000, Girl World Sports, Inc. filed Debtor's Second Amended Plan Of Reorganization, for the Court's Approval. Article VI of said Plan Of Reorganization, entitled "Means For Execution Of Plan", recited that the Debtor had entered into a Purchase And Sale Agreement with RCL Investments, Inc., and that a copy of the Purchase And Sale Agreement had

been attached to the Debtor's Third Amended Disclosure Statement, as Exhibit B.

10. On or about June 9, 2000, the Court approved the Debtor's Third Amended Disclosure Statement.

11. On or about August 8, 2000, the Court approved the Debtor's Second Amended Plan Of Reorganization, approving the Purchase And Sale Agreement between Girl World Sports, Inc. and RCL Investments, Inc.

12. On or about September 25, 2000, a final decree for the bankruptcy proceeding for Girl World Sports, Inc. was entered, and the case was closed.

13. On or about March 23, 2001, the corporate charter of Girl World Sports, Inc. was forfeited, *inter alia*, because Girl World Sports, Inc. had failed, "....to file a current year franchise tax report to establish the existence of assets from which a judgement for the franchise taxes, penalties and court costs may be satisfied." From said date of forfeiture to the present, Girl World Sports, Inc. has failed or refused to revive its right to do business in the State of Texas, or elsewhere, and is "not in good standing" as it has not satisfied all state tax requirements.

14. From the date the corporate charter of Girl World Sports, Inc. was forfeited until the present, Girl World Sports, Inc. has lacked the legal capacity to enter into any contracts with other parties. Any contract executed by or on behalf of a corporation which lacks legal capacity is void, and may not be enforced under any circumstances.

15. On information and belief, on or about June 22, 2001, after the corporate charter of Girl World Sports, Inc. was forfeited, an Assignment of the '005 Registration was executed by one "Sasha Milby", represented as the Vice-President of Girl World Sports, Inc. The Assignment purported to transfer ownership of the '005 Registration, and all right, title, and interest in and to the

mark GO GIRL, together with the good will of the business symbolized by the mark, to ORTEGA. This Assignment was subsequently recorded in September 2001, in the USPTO Assignment Branch.

16. Because Girl World Sports, Inc. lacked the legal capacity to enter into a contract on June 22, 2001, and because Girl World Sports, Inc. no longer owned the '005 Registration or any other trademark rights on June 22, 2001, the aforementioned Assignment, dated June 22, 2001, was void and legally ineffective to transfer any trademark rights including ownership of the '005 Registration, to ORTEGA.

17. Pursuant to the provisions of 15 U.S.C. § 1058, the owner of a Federal Registration has an affirmative obligation to file an Affidavit Of Use in the Office, prior to the end of 6 years following the date of registration. Upon failure to comply with this obligation, the registration shall be canceled by the Director.

18. Neither Girl World Sports, Inc. nor RCL Investments, Inc., filed a Section 8 Affidavit Of Use respecting the '005 Registration, and both failed therefore to comply with 15 U.S.C. § 1058, thereby abandoning the '005 Registration and any rights in the GO GIRL mark provided thereunder.

19. On or about November 30, 2004, ORTEGA'S attorney filed an Affidavit Of Use respecting the '005 Registration. However, neither ORTEGA nor ORTEGA'S attorney was the owner of the '005 Registration at that time, or at any time, and therefore lacked the legal capacity to act on behalf of Registrant Girl World Sports, Inc. or RCL Investments, Inc.

20. Since no Section 8 Affidavit Of Use has ever been filed by the owner of the '005 Registration, and the deadline for filing same has long since passed, the '005 Registration is subject to cancellation on the grounds of abandonment, and should be cancelled forthwith by the Director.

21. Owing to the foregoing facts and circumstances, Petitioner is damaged and will continue

to be damaged by the continuing existence of Reg. No. 2,227,005, for the trademark GO GIRL.

COUNT II - FRAUD IN THE MAINTENANCE OF REG. NO. 2,227,005

22. NOR-CAL hereby incorporates by reference the foregoing Paragraphs 1-22, as if fully set forth herein.

23. On or about November 30, 2004, when ORTEGA'S attorney filed an Affidavit Of Use on behalf of ORTEGA respecting the '005 Registration, ORTEGA swore that the GO GIRL trademark had been in continuous use in commerce for five consecutive years after the date of registration, and was still in use in commerce, on or in connection with all of the goods and or/services recited in the '005 Registration.

24. ORTEGA knew that the GO GIRL trademark had not been in continuous use in commerce for five consecutive years, by ORTEGA, at least in connection with Sweatpants and Leggings, as of the date the Affidavit Of Use was filed.

25. The aforementioned activities of ORTEGA constitute a fraud on the U.S. Patent and Trademark Office, providing grounds for cancellation of the '005 Registration under the Act.

WHEREFORE, it is respectfully requested that this Petition For Cancellation be granted and that Reg. No. 2,227,005 be cancelled and stricken from the Federal Register.

Respectfully submitted,

Dated: _____
Sacramento, California

R. Michael West
Attorney For Petitioner

The correspondence address, and
the telephone and facsimile numbers
for this communication are:

R. Michael West
The Law Offices Of
R. Michael West
1922 21ST Street
Sacramento, California 95811
Telephone: (916)-444-5444
Facsimile: (916)-444-5441

CERTIFICATE OF FILING

I hereby certify that this correspondence is being filed electronically with the Trademark Trial and Appeal Board, whose address is: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on the date set forth following.

Dated: _____

Leslie Chase

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing AMENDED PETITION FOR CANCELLATION was mailed by First Class Mail, postage prepaid, to Barry F. Soalt, Esq., Procopio, Cory, Hargreaves & Savitch LLP, 530 B Street, Suite 2100, San Diego, California 92101-4469 on: _____.

Dated: _____

Leslie Chase

IN THE UNITED STATES TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Reg. No. 2,227,005

Trademark: GO GIRL

NOR-CAL BEVERAGE CO., INC.)	
	)	Cancellation No. 92048879
)	
Petitioner And Counterclaim Defendant,	)	CERTIFICATE OF
	)	<u>SERVICE</u>
v.)	
)	
IRENE J. ORTEGA, dba GOGIRL ACTIVEWEAR)	
)	
Respondent And Counterclaim Plaintiff.)	-
	/	

I hereby certify that a copy of the documents described following:

PETITIONER'S MOTION FOR LEAVE TO FILE AMENDED PETITION FOR CANCELLATION; DECLARATION OF R. MICHAEL WEST; EXHIBIT A and EXHIBIT B.

were mailed on the date set forth opposite my signature, by First Class Mail, postage prepaid, and addressed as follows:

Barry F. Soalt, Esq.
Procopio, Cory, Hargreaves & Savitch, LLP
530 B Street, Suite 2100
San Diego, California 92101

Dated: April 16, 2009

/Lee Chase/
Lee Chase